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5 [Proposed] Attorneys for the Official Committee of  
6 Unsecured Creditors

FILED & ENTERED

NOV 25 2019

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY handy DEPUTY CLERK

7 **UNITED STATES BANKRUPTCY COURT**  
8 **CENTRAL DISTRICT OF CALIFORNIA**  
9 **NORTHERN DIVISION**

10 In re:

11 HVI CAT CANYON, INC.

12 Debtor.

Case No.: 19-bk-11573-MB

Chapter 11

13 **ORDER (I) ESTABLISHING  
INFORMATION SHARING PROCEDURES  
AND (II) GRANTING RELATED RELIEF**

14 Date: November 12, 2019  
15 Time: 11:00 a.m.  
16 Place: 1415 State Street  
Courtroom 201  
Santa Barbara, CA 93101  
17 Judge: Hon. Martin R. Barash

18 Upon consideration of the *Motion of the Official Committee of Unsecured Creditors for an*  
19 *Order (I) Establishing Information Sharing Procedures and (II) Granting Related Relief* [Docket  
20 No. 223], and it appearing that the relief requested in the Motion is in the best interests of the  
21 Debtor's estate, its creditors, and all other parties in interest; and the Court having jurisdiction to  
22 consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and  
23 consideration of the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue  
24 being proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that no other or  
25 further notice need be provided; and no objections to the Motion having been filed; and after due  
26 deliberation and sufficient cause appearing therefor,

27 **IT IS ORDERED, ADJUDGED AND DECREED** as follows:  
28

1           1. The Motion is **GRANTED**.

2           2. The Committee shall not be required pursuant to section 1102(b)(3)(A) of the  
3 Bankruptcy Code to provide access to any Confidential Information of the Debtor to any creditor with  
4 a claim of the kind represented by the Committee, except as provided below.

5           3. The Committee shall not be required pursuant to section 1102(b)(3)(A) of the  
6 Bankruptcy Code to provide access to any Privileged Information to any creditor with a claim of the  
7 kind represented by the Committee. Nonetheless, the Committee shall be permitted, but not required,  
8 to provide access to Privileged Information to any party so long as (a) such Privileged Information is  
9 not Confidential Information, and (b) the relevant privilege is held and controlled solely by the  
10 Committee.

11          4. The Committee shall implement the following protocol for providing access to  
12 information for creditors (“Creditor Information Protocol”) in accordance with section 1102(b)(3)(A)  
13 and (B) of the Bankruptcy Code:

14           a. Privileged and Confidential Information. The Committee shall not be  
15 required to disseminate to any entity (all references to “entity” herein  
16 shall be as defined in section 101(15) of the Bankruptcy Code, “Entity”)  
17 (i) without further order of the Court, Confidential Information, and (ii)  
18 Privileged Information. In addition, the Committee shall not be required  
to provide access to information or solicit comments from any Entity  
that has not demonstrated to the satisfaction of the Committee, in its sole  
discretion, or to the Court, that it holds claims of the kind described in  
section 1102(b)(3) of the Bankruptcy Code.

19           b. Information Obtained Through Discovery. Any information received  
20 (formally or informally) by the Committee from any Entity in connection  
21 with an examination pursuant to Rule 2004 of the Federal Rules of  
22 Bankruptcy Procedure or in connection with any formal or informal  
23 discovery in any contested matter, adversary proceeding or other  
litigation shall not be governed by any order entered with respect to this  
Motion but, rather, by any order governing such discovery. Nothing  
herein shall obligate the Committee to provide any information the  
Committee obtains from third parties.

24           c. Creditor Information Requests. If a creditor (the “Requesting Creditor”)  
25 submits a written request to the Committee (the “Information Request”)  
26 for the Committee to disclose information, pursuant to section  
27 1102(b)(3)(A) of the Bankruptcy Code the Committee shall as soon as  
practicable, but no more than thirty (30) days after receipt of the  
Information Request, provide a response to the Information Request (the  
“Response”), including providing access to the information requested or  
the reasons the Information Request cannot be complied with. If the  
Response is to deny the Request because the Committee believes the

Information Request implicates Confidential Information or Privileged Information that need not be disclosed (i) pursuant to the terms of this Order or otherwise under section 1102 (b)(3)(A) of the Bankruptcy Code, (ii) because such disclosure is prohibited under applicable law, (iii) because such information was obtained by the Committee pursuant to an agreement to maintain it as confidential, or (iv) that the Information Request is unduly burdensome, the Requesting Creditor may, after a good faith effort to meet and confer with an authorized representative of the Committee regarding the Information Request and the Response, seek to compel such disclosure for cause pursuant to a motion. Such motion shall be served and the hearing on such motion shall be noticed and scheduled. Nothing herein shall be deemed to preclude the Requesting Creditor from requesting (or the Committee objecting to such request) that the Committee provide the Requesting Creditor a log or other index of any information specifically responsive to the Requesting Creditor's request that the Committee deems to be Confidential Information or Privileged Information. Furthermore, nothing herein shall be deemed to preclude the Requesting Creditor from requesting that the Court conduct an *in camera*.

d. Release of Confidential Information of Third Parties. If the Information Request implicates Confidential Information of the Debtor (or any other Entity) and the Committee agrees that such request should be satisfied, or if the Committee on its own wishes to disclose such Confidential Information to creditors, the Committee may demand (the "Demand") for the benefit of the Debtor's creditors: (a) if the Confidential Information is information of the Debtor, by submitting a written request, each captioned as a "Committee Information Demand," to counsel for Michael A. McConnell, in his capacity as chapter 11 trustee of the Debtor (the "Trustee"), stating that such information will be disclosed in the manner described in the Demand unless the Trustee objects to such Demand on or before fifteen (15) days after the service of such Demand; and, after the lodging of such an objection, the Committee, the Requesting Creditor and the Trustee may schedule a hearing with the Court seeking a ruling with respect to the Demand and (b) if the Confidential Information is information of another Entity, by submitting a written request to such Entity and its counsel of record, with a copy to Trustee's counsel, stating that such information will be disclosed in the manner described in the Demand unless such Entity objects to such Demand on or before fifteen (15) days after the service of such Demand; and, after the lodging of such an objection, the Committee, the Requesting Creditor, such Entity and the Trustee may schedule a hearing with the Court seeking a ruling with respect to the Demand.

5. The Committee may establish and maintain a website as described in the Motion. The Committee may use the Debtor's logo on the website.

6. Nothing in this Order shall expand, restrict, affirm, or deny the right or obligation, if any, of a Committee to provide access or not to provide access, to any information of the Debtor to any party except as explicitly provided herein.

1           7. This Court shall retain jurisdiction to hear and determine all matters arising  
2 from or related to the implementation of this Order.

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PACHULSKI STANG ZIEHL & JONES LLP  
ATTORNEYS AT LAW  
LOS ANGELES, CALIFORNIA

Date: November 25, 2019



Martin R Barash  
United States Bankruptcy Judge